

Serial No.: 10/036,001

REMARKS

1. Claim Rejections - 35 U.S.C. § 102

Claims 23-28 and 30 have been rejected under 35 U.S.C. § 102(e) over U.S. Patent Application Publication No. 2003/0056002 to Trethewey.

Independent claim 23 recites that the query received by a load manager from a VoIP client requests specific information, namely the identity of the VoIP proxy server from plural VoIP proxy servers that has the lowest workload. This query was specifically selected by the Applicants and should be distinguished from other types of queries.

The use of a query requesting the identity of the VoIP proxy server with the lowest workload is not taught or reasonably suggested by Trethewey.

As shown in figure 2 and as described in paragraph 23, Trethewey's load manager receives a probe request from a remote computer. There is no indication that the probe request specifically requests the identity of a lowest workload VoIP proxy server. Rather, the Office Action presupposes that the probe request is sent to have the identity of the lowest loaded server returned to the remote computer (Office Action, paragraph 6(a)) even though there is no indication in Trethewey that the server selected to service the remote computer is selected on the basis of lowest workload.

Trethewey selects and assigns a server using a "conventional selection algorithm" (paragraph 23). The conventional selection routine identified in Trethewey is an even distribution technique (paragraph 4), which might include a round robin approach to distributing load.

The fact that Trethewey undertakes selecting a server to service the remote computer underscores another distinction between the claimed subject matter and that which is disclosed by Trethewey. As claimed, the server with which the VoIP client communicates to initiate a VoIP call is driven by the client's request for the identity of the VoIP proxy server with the lowest workload and the return of that identity to the VoIP client.

Serial No.: 10/036,001

In contrast to this claimed call initiation technique, Trethewey's load monitor makes a selection. As will be appreciated, server selection in VoIP systems is not always conducted based on workload considerations and, even if the selection is based on workload considerations, load balancing need not be driven by lowest workload (especially in systems where servers may have different workload capacities). Other factors often considered in server selection are lowest connection cost, quality of service, connectivity privileges and considerations associated with a servicing plan paid for by the user of the VoIP client, individual server workload capacity, load balancing techniques other than using the server with the lowest workload (e.g., round robin), and so forth.

Thus, it cannot be concluded that it is inherent or obvious that when a VoIP client sends a probe request to a load balancer that the load balancer is to select the lowest workload server as proposed by paragraph 2 of the Office Action. Since Trethewey merely describes a generic probe request, one cannot make the assumption that the probe request is instructive of an explicit request for the identity of the server with the lowest workload as claimed.

For at least these reasons, claim 23 is patentable. Claims 24-28 and 30 depend from claim 23 and are patentable for at least the same reasons. Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 102(e) is respectfully requested.

2. **Claim Rejections - 35 U.S.C. § 103**

Claim 29 has been rejected under 35 U.S.C. § 103(a) over Trethewey in view of U.S. Patent No. 6,092,178 to Jindal. Jindal does not cure the above-described deficiencies of Trethewey. Since claim 29 indirectly depends from claim 23, claim 23 is patentable for at least the reasons set forth above. Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 103(a) is respectfully requested.

Serial No.: 10/036,001

3. Conclusion

In light of the foregoing, it is respectfully submitted that the present application is in condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned representative to expedite prosecution of the present application.

If there are any fees resulting from this communication, please charge same to our Deposit Account No. 18-0988, our Order No. INMEP101US.

Respectfully submitted,

RENNER, OTTO, BOISSELLE & SKLAR, LLP

By



M. David Galin; Reg. No. 41,767

1621 Euclid Avenue
Nineteenth Floor
Cleveland, Ohio 44115
Telephone: (216) 621-1113
Facsimile: (216) 621-6165

R:\DGalin\INME\P0101us\INMEP0101US.R02.wpd